

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:21-cv-00305-MR-WCM

BRO T. HESED-EL

Plaintiff,

v.

ROBIN BRYSON

*Licensed Clinical Social Worker,
in his individual and official capacity,*

JOHN DOE

*Hospital Does 1-20, in their
individual and official capacities,*

MISSION HOSPITAL, INC.,

ANC HEALTHCARE, INC.

Defendants.

ORDER

This matter is before the undersigned on Defendants' Motion to Dismiss (the "Motion to Dismiss," Doc. 10) and Plaintiff's Request for Permission to File Electronically (the "Motion to E-File," Doc. 15).

I. The Motion to Dismiss

Defendants filed their Motion to Dismiss on January 27, 2022. Doc. 10. Defendants served the Motion to Dismiss on Plaintiff by mail. Doc. 10 at 3.

On February 22, 2022, Plaintiff, who is proceeding *pro se*, filed an Amended Complaint. Doc. 14.

"The general rule ... is that an amended pleading supersedes the original

pleading, rendering the original pleading of no effect.” Young v. City of Mount Ranier, 238 F.3d 567, 573 (4th Cir. 2001); see also Fawzy v. Wauquiez Boats SNC, 873 F.3d 451, 455 (4th Cir. 2017) (“Because a properly filed amended complaint supersedes the original one and becomes the operative complaint in the case, it renders the original complaint ‘of no effect’”).

“A party may amend its pleading once as a matter of course within ... 21 days after service of a motion under Rule 12(b)....” Fed. R. Civ. Pro. 15(a)(1)(B). Considering the method of service of the Motion to Dismiss, as well as weekends and holidays, Plaintiff’s Amended Complaint was filed timely pursuant to Rule 15(a)(1)(B). See Fed. R. Civ. P. 5(b)(2)(C); 6(d); 6(a)(1)(C).

Accordingly, the Motion to Dismiss is now moot. See Colin v. Marconi Commerce Systems Employees’ Retirement Plan, 335 F.Supp.2d 590, 614 (M.D.N.C. 2004) (“Earlier motions made by Defendants were filed prior to and have been rendered moot by Plaintiffs’ filing of the Second Amended Complaint”); Ledford v. Eastern Band of Cherokee Indians, No. 1:20-CV-005-MR-DCK, 2020 WL 1042235 at 1 (W.D.N.C. March 3, 2020) (“It is well settled that a timely-filed amended pleading supersedes the original pleading, and that motions directed at superseded pleadings may be denied as moot”).¹

¹ Also pending is Defendants’ Motion to Take Judicial Notice (Doc. 12). Plaintiff’s deadline for responding to that motion is March 4, 2022.

II. The Motion to E-File

In his Motion to E-File, Plaintiff explains that from February of 2022 “through the remainder of the year” he will be traveling overseas and that considering the cost and delivery time associated with mailing documents from Europe, Africa, and Asia, he would like permission to file electronically. Plaintiff additionally states that he has already been serving Defendants by email, has an existing PACER account in good standing, and “has no history of abusing his active e-filing privileges” in certain appellate courts. Doc. 15 at 1-2.

This Court’s Administrative Procedures Governing Filing and Service by Electronic Means (“Administrative Procedures”) provide that “parties proceeding *pro se* may request in writing - solely for the purpose of the action - to receive notice via e-mail whenever a pleading or other paper is filed electronically in accordance with these procedures.” Administrative Procedures, revised January 1, 2018, available on the Court’s website. However, “[p]arties proceeding *pro se* shall not file electronically.” Id.

Accordingly, while Plaintiff may request to receive electronic notification of filings in this matter, consistent with the Court’s Administrative Procedures, the Motion to E-File will be denied.

IT IS THEREFORE ORDERED that:

1. Defendants' Motion to Dismiss (Doc. 10) is **DENIED AS MOOT**. This denial is without prejudice to the filing of any motions challenging the Amended Complaint, if appropriate.
2. Plaintiff's Request for Permission to File Electronically (Doc. 15) is **DENIED**.

Signed: February 23, 2022

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

